IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12587 of 2004

Between:

Smt.P.Sandhya Rani, W/o Rajasekhar Varma,
Propritrixm M/s Aditya Gas Agency, Bharat Gas Distributors, Main Road,
Nallabelli, Warangal District

..... PETITIONER

AND

1 The Superintendent of Police, Warangal District at Warangal
2 The Station House Officer, Narasampet P.S. Narasampet, Warangal District
3 The Bharat Petroleum Corporation Ltd. rep.by its Territory Manager, (LPG), Hyderabad
4 Smt.P.Vajramma, W/o Late Adinarayana,
R/o 2-6-925, K.L.N.Reddy Colony, Hanamkonda
5 P.Shyambabu, S/o Late Adinarayana,
R/o 2-6-925, K.L.N.Reddy Colony, Hanamkonda
6 P.Vijayababu, S/o Late Adinarayana,
R/o 2-6-925, K.L.N.Reddy Colony, Hanamkonda

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents 1 and 2 in not initiating an action against the respondents 4 to 6 preventing them from committing any injury, damage to the property of the 3rd respondent which is under the custody of the petitioner herein, pursuant to the petitioners complaint Dated 20th March 2004 to the 1st respondent, as illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India and consequently to direct the respondents 1 and 2 to enquire in to the petitioners complaint and to take action against respondents 4 to 6 in accordance with law

Counsel for the Petitioner: MR.P.V.A.PADMANABHAM

Counsel for the Respondents : GP FOR HOME

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITIION NO.12587 OF 2004

ORDER:

The petitioner seeks a Writ of Mandamus declaring the alleged inaction on the part of the respondents 1 and 2 in taking steps against the respondents 4 to 6 so as to prevent them from committing any damage to the property of the 3rd respondent which is under the custody of the petitioner as arbitrary and illegal.

Petitioner states that she was appointed as a distributor of the third respondent – The Bharat Petroleum Corporation Limited (for short, 'the Corporation') for sale of LPG at Nallabelli at Warangal District in the year 2001 following the due process of selection. Pursuant to the Letter of Intent issued by the Corporation, the petitioner purchased land to an extent of one acre under the Registered Sale Deed, dated 22.12.2000 for a consideration of Rs.40,000/- and established LPG storage facility. As per the terms of the agreement dated 31.03.2001 which governs the distributorship granted to the petitioner, the LPG Cylinders, Regulators, Caps and Valves etc, made available to the petitioner remains to be the property of the 3rd respondent Corporation and the petitioner is responsible for the due care and custody of the same. It is alleged that the respondents 4 to 6 who are no other than the mother and brothers of the petitioner started harassing her to part with LPG distributorship granted by the Corporation. To resist their claim, the petitioner filed O.S.No.113 of 2003 on the file of the Junior Civil Judge, Narsampet, Warangal District seeking permanent injunction restraining respondents 4 to 6 herein, their workmen, agents etc., from interfering with her peaceful possession and enjoyment of the suit schedule properties. The respondents 4 to 6 have been contesting the suit proceedings, which is still pending. It is further alleged that on 23.11.2003 the respondents 4 to 6 along with a mob attacked the sales counter of the petitioner and assaulted her and used criminal force to extort money and valuable property belonging to the 3rd respondent Corporation, which is in the custody of the petitioner. Immediately, on the same day, the petitioner lodged a complaint with the 2nd respondent-Station House Officer, Narsampet P.S., Warangal District and sought for necessary protection, however, the second respondent failed to take any action. On the other hand, a false case was foisted by the police at the behest of the

petitioner's mother, the 4th respondent herein against the petitioner for an alleged offence under the provisions of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. On 29.02.2004 the respondents 4 to 6 and a group of assailants once again attacked the sales counter and LPG storage godown and dispossessed the petitioner. The petitioner lodged another complaint with the second respondent. In the said incident, the respondents 4 to 6 captured the godown of the petitioner with 440 empty refills, 270 full cylinders and 406 regulators and cash worth Rs.1,45,000/-. It is alleged that the respondents 4 to 6 were supported by the then Deputy Superintendent of Police, Narsampet by name one Sri Ranganath. Aggrieved by the inaction on the part of the second respondent, the petitioner approached the first respondent-Superintendent of Police, Warangal and made a complaint, dated 20.3.2004, but no steps were taken even by the first respondent. In the meanwhile, the third respondent-corporation having taken serious note of the above incidents, by letter dated 27.4.2004 advised the petitioner to take appropriate steps for taking over the distributorship with the assistance of the police and to commence the operations at the earliest to avoid penal consequences. However, in spite of several complaints, the respondents 1 and 2 failed to take necessary action in the matter though they are bound to take preventive steps to protect the property of the third respondent-Corporation, which is the public property. Hence this writ petition.

On behalf of the respondents 1 and 2, the Sub-Inspector of Police, Narsampet police station, Warangal District filed a counter-affidavit denying all the allegations made by the petitioner. It is also stated that the petitioner never made any complaint in respect of the alleged incident dated 23.11.2003. It is further stated that Crime No.159 of 2003 under Sections 3(1)(i)(x) of The SCs & STs (prevention of Atrocities) Act, 1989 was registered against one Pujari Rajasekhar Varma, who is the husband of the petitioner and two others as well as the petitioner on 24-11-2003, and after completion of investigation by the Sub-Divisional Police Officer, the same was closed as 'false' and final report was also filed before the concerned Court on 27.4.2004. The allegation of the petitioner that the mother of the petitioner- 4th respondent herein, was the complainant in the said case, is incorrect. The plea of the petitioner that she lodged a complaint in respect of alleged incident that occurred on 29-2-2004 has also been denied and it is stated that in view of the civil disputes pending between her and respondents 4 to 6, the petitioner misrepresented before

this Court.

A separate counter affidavit has been filed on behalf of the respondents 4 to 6 specifically denying all the allegations made by the petitioner. While narrating in detail the disputes which the petitioner had with the respondents 4 to 6, it is further stated that the incident as alleged by the petitioner did not take place either on 23.11.2003 or on 29.02.2004. They also pleaded that they never indulged in any untoward incident or acted in a highhanded manner and that they have been carrying on their business with their joint family funds and there has never been any threat to the property of the 3rd respondent corporation.

However, the petitioner in the affidavit filed in reply disputed the version of the respondents and reiterated that there was interference by the respondents 4 to 6 and that in spite of the complaints made the respondents 1 and 2 failed to take any action.

The learned Counsel for the petitioner contends that the first respondent refused to receive the complaints and as a matter of fact on the petitioner's complaint it was endorsed by the first respondent that being a Civil matter the interference of Police is not warranted. It is also relevant to note that a specific allegation has been made in the reply affidavit that on 18-07-2004 the second respondent at the instance of the fourth respondent took over the sales counter and the L.P.G. Storage Godown and kept it under lock and key thereby preventing the petitioner from carrying on the business activity.

On the basis of the material on record and in the light of the submissions made by the learned Counsel appearing for both the parties, it is relevant to note that it is not the case of the respondents that the petitioner is involved in any offence nor there is any complaint against her particularly with regard to her business activity as a distributor of the third respondent Corporation. May be that, there are certain civil disputes among the petitioner and the respondents 4 to 6, but, the grievance of the petitioner is that at the instance of the respondents 4 to 6, the second respondent is interfering with the business activities. However, the said allegation has been

denied by the respondents 1 & 2 and also by the respondents 4 to 6 in their respective counter-affidavits.

In the circumstances, while recording the statement of the respondents 1 & 2 in their counter-affidavit that they are not interfering with the business activities of the petitioner, the Writ Petition is disposed of with a direction to the respondents 1 and 2 not to interfere with the lawful business activities of the petitioner. It is made clear that in case there is any allegation that the petitioner is indulging in unlawful activity, this shall not preclude the respondents 1 and 2 to take the necessary steps following due process of law.

Accordingly, the writ petition is disposed of. No costs.

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14th October, 2004.

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To

1 The Superintendent of Police, Warangal District at Warangal
2 The Station House Officer, Narasampet P.S. Narasampet, Warangal District
3 The Bharat Petroleum Corporation Ltd. rep.by its Territory Manager, (LPG), Hyderabad
4. **Two CCs to G.P. for Home, High Court Buildings, Hyderabad.(OUT)**

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